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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

13 KHALID MATAN,

14 Petitioner,

15 v.

16 KRISTI NOEM, Secretary of the
17 Department of Homeland Security,
18 PAMELA JO BONDI, Attorney General,
19 TODD M. LYONS, Acting Director,
20 Immigration and Customs Enforcement,
21 JESUS ROCHA, Acting Field Office
22 Director, San Diego Field Office,
23 CHRISTOPHER LAROSE, Warden at
24 Otay Mesa Detention Center,

25 Respondents.

CIVIL CASE NO.: '26CV0024 BAS DDL

**Motion for a
Temporary Restraining Order**

23 Khalid Matan was granted withholding of removal to his native country of
24 Somalia in 2018. He spent the next 7 years on release, complying with all
25 conditions. Yet, in December 2025, ICE detained him. ICE did not comply with
26 regulations in redetaining him, and ICE has not been able to remove him to a third
27 country. He has a strong claim to release, and every additional day in detention
28

1 works irreparable harm. And ICE’s policy permits his removal to a third country
2 with little or no notice. This Court should therefore enter a temporary restraining
3 order (“TRO”) pending further litigation.

4 **Argument**

5 To obtain a TRO, a plaintiff “must establish that he is likely to succeed on
6 the merits, that he is likely to suffer irreparable harm in the absence of preliminary
7 relief, that the balance of equities tips in his favor, and that an injunction is in the
8 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);
9 *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7
10 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve
11 “substantially identical” analysis). A “variant[] of the same standard” is the
12 “sliding scale”: “if a plaintiff can only show that there are ‘serious questions
13 going to the merits—a lesser showing than likelihood of success on the merits—
14 then a preliminary injunction may still issue if the balance of hardships tips
15 sharply in the plaintiff’s favor, and the other two *Winter* factors are satisfied.”
16 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025)
17 (internal quotation marks omitted). Under this approach, the four *Winter* elements
18 are “balanced, so that a stronger showing of one element may offset a weaker
19 showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131
20 (9th Cir. 2011). A TRO may be granted where there are “‘serious questions going
21 to the merits’ and a hardship balance. . . tips sharply toward the plaintiff,” and so
22 long as the other *Winter* factors are met. *Id.* at 1132.

23 Here, this Court should issue a temporary restraining order because his
24 unlawful immigration detention has caused, and will continue to cause,
25 “immediate and irreparable injury . . . or damage.” Fed. R. Civ. P. 65(b). This
26 Court should therefore order Petitioner’s release and enjoin removal to a third
27 country with no or inadequate notice.
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1 **I. Petitioner is likely to succeed on the merits, or at a minimum, raises**
2 **serious merits questions.**

3 Concurrent with this TRO motion, Mr. Matan files a habeas petition setting
4 forth in detail why he is likely to succeed on the merits. Mr. Matan will not repeat
5 those arguments here, but he provides some examples of recent TRO or habeas
6 petition grants in this district related to the claims he raises in this petition.

7 (1) *Regulatory and due process violations: Constantinovici v. Bondi*, __ F.
8 Supp. 3d __, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025);
9 *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept.
10 15, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3–*5
11 (S.D. Cal. Oct. 10, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB
12 (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-
13 2334-JES, *3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES,
14 ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-
15 02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025).

16 (2) *Zadvydas violations: See Conchas-Valdez*, 2025 WL 2884822, No. 25-
17 cv-2469-DMS (S.D. Cal. Oct. 6, 2025); *Alic v. Dep't of Homeland Sec./Immigr.*
18 *Customs Enft*, No. 25-CV-01749-AJB-BLM, 2025 WL 2799679 (S.D. Cal. Sept.
19 30, 2025); *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept.
20 25, 2025).

21 (3) *Third-country removal statutory and due process violations: Rebenok v.*
22 *Noem*, No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623
23 at *3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18,
24 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-JES, *4 (S.D.
25 Cal. Oct. 9, 2025).

1 **II. Petitioner will suffer irreparable harm absent injunctive relief.**

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3 Petitioner also meets the second factor, irreparable harm. “It is well
4 established that the deprivation of constitutional rights ‘unquestionably constitutes
5 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
6 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation
7 of a constitutional right is involved, most courts hold that no further showing of
8 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02
9 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and
10 Procedure*, § 2948.1 (2d ed. 2004)).

11 Here, the potential irreparable harm to Petitioner is even more concrete. The
12 Ninth Circuit has specifically recognized the “irreparable harms imposed on anyone
13 subject to immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th
14 Cir. 2017). That is because “[u]nlawful detention constitutes ‘extreme or very
15 serious damage, and that damage is not compensable in damages.’” *Hernandez v.
16 Sessions*, 872 F.3d 976, 999 (9th Cir. 2017). And in Mr. Matan’s case, his re-
17 detention prevented him from getting the hip replacement surgery that he needs.
18 Exh. A to Habeas Petition at ¶ 9.

19 Finally, “[i]t is beyond dispute that Petitioner would face irreparable harm
20 from removal to a third country.” *Nguyen*, 2025 WL 2419288, at *26. Recent third-
21 country deportees have been held, indefinitely and without charge, in hazardous
22 foreign prisons. *See Wong et al., supra*. They have been subjected to solitary
23 confinement. *See Imray, supra*. They have been removed to countries so unstable
24 that the U.S. government recommends making a will and appointing a hostage
25 negotiator before traveling to them. *See Wong, supra*. These and other threats to
26 Petitioner’s health and life independently constitute irreparable harm.

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1 **III. The balance of hardships and the public interest weigh heavily in**
2 **petitioner’s favor.**

3 The final two factors for a TRO—the balance of hardships and public
4 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,
5 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On the
6 one hand, the government “cannot reasonably assert that it is harmed in any legally
7 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d
8 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent
9 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S.
10 at 436 (describing public interest in preventing noncitizens “from being wrongfully
11 removed, particularly to countries where they are likely to face substantial harm”);
12 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019)
13 (when government’s treatment “is inconsistent with federal law, . . . the balance of
14 hardships and public interest factors weigh in favor of a preliminary injunction.”).
15 On the other hand, Petitioner faces weighty hardships: unlawful, indefinite
16 detention and removal to a third country where he is likely to suffer imprisonment
17 or other serious harm. The balance of equities thus favors preventing the violation
18 of “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d
19 1053, 1069 (9th Cir. 2014), by granting emergency relief to protect against unlawful
20 detention and prevent unlawful third country removal.

21
22 Respectfully submitted,

23
24 Dated: January 4, 2026

s/ Katie Hurrelbrink

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PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: 1/4/2026

/s/ Katie Hurrelbrink
Katie Hurrelbrink

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10

11 KHALID MATAN,

12 Petitioner,

13 v.

14 KRISTI NOEM; et al.,

15 Respondents.

Case No.: 26-cv-0024-JES-DDL

**JOINT MOTION TO EXTEND
RESPONDENTS' TIME TO
RESPOND**

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20 The parties, through their respective counsel of record, respectfully request an
21 order modifying the briefing schedule. On January 4, 2026, Petitioner filed a petition
22 for writ of habeas corpus and motion for temporary restraining order. ECF Nos. 1, 2.
23 On January 5, 2026, the Court issued an order which, *inter alia*, set Respondents'
24 deadline to file a response as January 8, 2026. ECF No. 3.

25 The parties jointly and respectfully request this brief extension to allow
26 Respondents' counsel adequate time to gather all relevant information necessary to draft
27 a response to the petition and motion for temporary restraining. As such, the parties
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28

1 request that the Court extend Respondents' deadline for filing a response until January
2 9, 2026, with Petitioner's deadline for filing a reply remaining as January 12, 2026.

3 DATED: January 6, 2026

4 s/ Katie Hurrelbrink
5 KATIE HURRELBRINK
6 Attorney for Petitioner

7 DATED: January 6, 2026

8 ADAM GORDON
9 United States Attorney

10 s/Erin M. Dimbleby
11 ERIN M. DIMBLEBY
12 Assistant United States Attorney
13 Attorneys for Respondents

14 **SIGNATURE CERTIFICATION**

15 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies
16 and Procedures of the United States District Court for the Southern District of
17 California, I hereby certify that the content of this document is acceptable to Katie
18 Hurrelbrink, counsel for Petitioner, and that I have obtained Ms. Hurrelbrink's
19 authorization to affix her electronic signature to this document.

20 DATED: January 6, 2026

21 s/Erin M. Dimbleby
22 ERIN M. DIMBLEBY
23 Assistant United States Attorney
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